

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CASE NO. 1:23-CV-00129-MR**

ACCORDIUS HEALTH AT)	
ASHEVILLE, LLC,)	
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES SMALL)	
BUSINESS ADMINISTRATION,)	
<i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS’ MEMORANDUM IN SUPPORT OF CONSENTED-TO
MOTION FOR LEAVE TO FILE A RESPONSE TO BRIEF OF THE
AMERICAN HOTEL & LODGING ASSOCIATION AS AMICUS CURIAE**

NOW COME the Defendants, by and through the undersigned, in support of Defendants’ motion for leave to file a proposed response to the proposed amicus brief (Doc. 37-1) lodged by the American Hotel & Lodging Association (“AHLA”) supporting Plaintiffs in this action under the Administrative Procedure Act concerning application of the Corporate Group Rule, Defendants state as follows:

1. The AHLA brief advances certain contentions regarding the application of the Corporate Group Rule particular to hotels and borrowers in the hospitality industry.

2. If the Court considers the AHLA brief, it would be helpful for the Court to also consider Defendants' proposed response.

3. As the proposed response explains: Plaintiffs are skilled nursing facilities. They do not operate in the hospitality industry. Hence, they could not have based, and did not base, the instant APA challenge on SBA's application of the Corporate Group Rule to borrowers in that industry. AHLA's contentions thus should not be addressed in this action. In any event, even if the Court were to entertain them, AHLA's arguments fail. The Rule is consistent with the text, structure, and legal context of the CARES Act, and Congress ratified it in subsequent legislation. Summary judgment should thus be granted to SBA.

4. Accordingly, if the Court considers the AHLA brief, it would be helpful for the Court to also consider the Defendant's proposed response, which is attached as Exhibit A.

Respectfully submitted, this the 26th day of April, 2024.

DENA J. KING
UNITED STATES ATTORNEY

BRIAN M. BOYNTON
Principal Deputy Ass't Attorney General

BRIAN D. NETTER
Deputy Assistant Attorney General

s/Gill P. Beck
GILL P. BECK
Assistant United States Attorney
Chief, Civil Division
N.C. Bar No. 13175
Room 233, US Courthouse
100 Otis Street
Asheville, NC 28801
Phone: 828-271-4661
Fax: 828-271-4327
E-Mail: gill.beck@usdoj.gov

s/James J. Gilligan
JAMES J. GILLIGAN, T.A. (DC
#422152)
INDRANEEL SUR (DC #978017)
Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883, Ben Franklin Station
Washington, D.C. 20044
E-mail: james.gilligan@usdoj.gov
Telephone: (202) 514-3358
Fax: (202) 616-8470
Counsel for Defendants